

REMARKS

Claims 36 and 42-47 are currently pending in this application. In the Office Action mailed December 3, 2004 (the "Office Action"), claims 36, 43-44 were allowed; claims 42, 45-47 were objected to due to informalities; and claims 45-47 were rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants wish to thank the examiner for allowance of claims 36, 43 and 44. Claims 42, 45-47 have been amended to correct the informalities in satisfaction of the objection. Claims 45-47 have been further amended to remove any indefiniteness, rendering the previous rejection moot. Applicants respectfully request favorable consideration of the present application in light of the amendments to the claims and specification and the following remarks.

I. Priority

Page 2 of the Office Action points out that Applicants have not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120, because the present application was lacking a specific reference to the prior filed application to which Applicants are claiming priority. In response to this deficiency, the specification has been amended to correctly indicate that the present application is a continuation application of commonly owned and co-pending U.S. Patent Application 09/320,081 filed on May 26, 1999 and issued as U.S. Patent No. 6,368,325. Applicants respectfully submit that this correction in the specification satisfies the requirements of 35 U.S.C. 120 and places the present application in condition for allowance.

II. Oath/Declaration

On page 2 of the Office Action, the oath or declaration was determined to be defective because it does not state that the person making the oath or declaration has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration. Consequently, a new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date was required. The applicant respectfully traverses this requirement as set forth below.

The present application was filed as a continuation of commonly owned and co-pending U.S. Patent Application 09/320,081 filed on May 26, 1999 and issued as U.S. Patent No. 6,368,325. As previously discussed, the specification has been amended to correct any deficiencies created by not including this statement in the first sentence of the specification.

37 CFR 1.63(d) provides that a newly executed oath or declaration is not required in a continuation or divisional application provided that: (i) the prior nonprovisional application contained an oath or declaration as prescribed by paragraphs (a) through (c); (ii) the continuation or divisional application was filed by all or by fewer than all of the inventors named in the prior application; (iii) the specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application; and (iv) a copy of the executed oath or declaration filed in the prior application, showing the signature or an indication thereon that it was signed, is submitted for the continuation or divisional application.

In this instance, the Applicants believe that the copy of the declaration submitted with the present application satisfies the requirements of 37 CFR 1.63(d). The oath submitted with the prior nonprovisional application was valid in compliance with 37 CFR 1.63(a)-(c); the present continuation application was filed by all the inventors named on the prior nonprovisional application; the specification and drawings submitted in the present continuation application contain no new matter; and a copy of the executed declaration filed in the prior application showing the signatures of the inventors was submitted for the present continuation application.

Therefore, Applicants respectfully submit that the copy of the declaration as filed satisfies the requirements of 37 CFR 1.63(d), and the present continuation application as amended is in proper condition for allowance.

III. Claim Objections

Claim 42 was objected to on page 3 of the Office Action due to certain informalities in line 2. The claim has been amended to correct these informalities such that the objection is believed to be moot, with claim 42 in proper form for allowance.

Claims 45-47 were objected to on page 3 of the Office Action due to certain informalities in line 1 of each claim. The claims have been amended to correct these informalities such that the objection is believed to be moot, with claims 42-45 in proper form for allowance.

IV. Claim Rejections – 35 U.S.C. § 112

Claims 45-47 were rejected under 35 USC § 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In each claim, "the bone block" has been amended to "each of said first and second bone blocks" in order to clarify this reference.

V. Allowable Subject Matter

Applicants acknowledge with appreciation the indication of allowance of claims 36, 43-44 set forth on page 3 of the Office Action.

Conclusion

The foregoing amendments have been submitted to place the present application in condition for allowance. Favorable consideration and allowance of the claims in this application is respectfully requested. In the event that there are any questions concerning this Amendment or the application in general, the Examiner is cordially invited to telephone the undersigned attorney so that prosecution may be expedited.

Respectfully submitted,
NUVASIVE, INC.

By: 

Jonathan Spangler, Esq.
Registration No. 40,182

10065 Old Grove Road
San Diego, CA 92131
Tel.: (858) 243-0029

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